

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MICHAEL KELLER,)
vs.)
Plaintiff,)
vs.)
CAROLYN W. COLVIN,)
Acting Commissioner of Social Security,)
Defendant.)
Case No. 15-00069-CV-W-ODS-SSA

ORDER AND OPINION REVERSING COMMISSIONER'S FINAL DECISION
DENYING BENEFITS AND REMANDING FOR FURTHER PROCEEDINGS

Pending is Plaintiff's appeal of the Commissioner of Social Security's final decision denying his application for supplemental security income. The Commissioner's decision is reversed and the case is remanded for further proceedings.

1. The ALJ must obtain a consultative examination to determine the extent of Plaintiff's limitations. "While a claimant for benefits has the burden of proving a disability, the Secretary has the duty to develop the record fully and fairly, even if ... the claimant is represented by counsel." Boyd v. Sullivan, 960 F.2d 733, 736 (8th Cir. 1992) (citation and internal quotation omitted); 20 C.F.R. § 416.919a(b) (stating that a medical examination may be obtained if the administrative record does not provide sufficient evidence to determine whether the claimant is disabled). When the medical records do not provide sufficient information to make an informed decision, the ALJ may order a consultative examination. Id. (citing 20 C.F.R. § 416.917). "It is reversible error for an ALJ not to order a consultative examination when such an evaluation is necessary for him to make an informed decision." Id. (citations omitted). Here, the Record does not provide sufficient evidence to determine whether Plaintiff is disabled. Thus, the ALJ is ordered to obtain a consultative examination to determine the extent of Plaintiff's limitations.

2. Upon receipt of the consultative examination, the ALJ must reformulate the RFC, and in doing so, the ALJ must (a) include limitations related to Plaintiff's

severe headaches or specify why no such limitations are not included in the RFC, (b) reconsider the March 2014 Medical Source Statement (“MSS”) provided by Larry Nichols, D.O., and either include the limitations set forth in the MSS or explain why those limitations are not included in the RFC, and (c) consider the consultative examination ordered in Paragraph 1 of this Order.

3. The ALJ must re-evaluate Plaintiff’s credibility. Based upon the evidence gathered at the time of the hearing before the ALJ, the Court finds that the ALJ’s finding that Plaintiff was partially credible was supported by the substantial evidence in the Record. However, the ALJ must re-evaluate Plaintiff’s credibility once the consultative medical examination ordered in Paragraph 1 of this Order has been received.

IT IS SO ORDERED.

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT
DATE: September 14, 2015